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10/605,667	10/16/2003	Abraham Glezerman	04291/100M649-US1	2666
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER NGUYEN, KHAI MINH	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/605,667

Applicant(s)

GLEZERMAN, ABRAHAM

Examiner

Khai M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-19,21-26,28-29 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) —
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

2. Applicant's arguments with respect to claims 1, 3-26, and 28-29 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden (U.S.Pat-5737436) in view of De Pol (EP 1049310A1).

Regarding claim 24, Boyden teaches a wireless communications kit for use with a cellular telephone, comprising:

a communications headset having a housing including circuitry therein (col.5, lines 32-54);

an eyeglass attachment component arranged to attach to a temple member of a pair of glasses (fig.6-8, abstract, col.3, lines 60-67); and

a magnetic securement seated so as to be shield from the circuitry (fig.10, col.7, line 47 to col.8, line 4) within the housing (fig.8 and 8a, col.8, lines 57-65) and arranged

to magnetically secure the extension to the attachment component (fig.8 and 8a, col.8, line 57 to col.9, line 11).

Boyden fails to specifically disclose a housing attachment component having a lower end secured to the housing and an upper end having an extension. However, De Pol teaches a housing attachment component having a lower end secured to the housing and an upper end having an extension (fig.2, paragraph 0029-0032). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of De Pol to Boyden to provide the accessory can be used from time to time on a plurality of glasses, even if these are of different types.

Regarding claim 25, Boyden and De Pol further teach the wireless communication kit of claim 24, wherein the lower end of the housing attachment is hingeably secured to the housing (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 26, Boyden and De Pol further teach the wireless communications kit of claim 24, wherein the housing attachment component is permanently affixed to the housing (see De Pol, fig.2, paragraph 0029-0032).

4. Claims 1, 3-6, 9-19, 21-23, and 28- 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden (U.S.Pat-5737436) in view of Chung et al. (U.S.Pub-20030114201) and further in view of De Pol (EP 1049310A1).

Regarding claims 1 and 29, Boyden teaches a wireless communications kit for use with a cellular telephone, comprising:

a communications headset having a common mount (abstract);

a housing (col.5, lines 32-54) attached to the mount (abstract), the housing including a microphone (col.5, lines 32-54), a speaker (col.5, lines 32-54), a rechargeable battery and communications circuitry therein (col.5, lines 32-54), the microphone and speaker being in communication with the cellular telephone (col.8, lines 11-21), the communications circuitry having the microphone as an input and the speaker as an output (col.5, lines 32-54); and

a second attachment shaped to secure itself to the mount (fig.6-8, abstract, col.3, lines 60-67) and including a part arranged to attach to a temple member of a pair of glasses (fig.6-8, abstract, col.3, lines 60-67).

wherein the mount includes magnet secured to the housing (fig.8 and 8a, col.8, line 57 to col.9, line 11);

wherein the attachments include a magnetically permeable mount portion shaped to be seatable on the mount (fig.8 and 8a, col.8, line 57 to col.9, line 11).

Boyden fails to specifically disclose a first attachment shaped to secure itself to the mount and configured to seat itself about an ear of a user. However, Chung teaches a first attachment shaped to secure itself to the mount (fig.2, hanger 200) and configured to seat itself about an ear of a user (fig.1-2, and 7, hanger 200, abstract, paragraph 0012-0013, 0028). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Chung to

Boyden to provide the headset to easily worn on a user's ear and to maintained in it's initial stable and comfortable wearing position.

Boyden and Chung fail to specifically disclose a top portion. However, De Pol teaches a top portion (fig.2, paragraph 0029-0032). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of De Pol to Chung and Boyden to provide the accessory can be used from time to time on a plurality of glasses, even if these are of different types.

Regarding claim 3, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 1, wherein the mount comprises a slot through the housing of the communication headset (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 4, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 3, wherein the first (see Chung, fig.2, hanger 200) and second attachments include a downwardly dependent leg shaped and sized for receipt in the slot (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 5, De Pol, Boyden, and Chung further teach teach the wireless communications kit of claim 28, wherein the leg is frictionally fit within the slot (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 6, De Pol, Boyden, and Chung further teach teach the wireless communications kit of claim 28, wherein the leg includes an upper portion and a lower portion slightly transposed from the upper portion (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 9, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 28, wherein the mount includes a magnet secured to the housing (see Boyden, fig.8 and 8a, col.8, line 57 to col.9, line 11).

Regarding claim 10, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 9, wherein the first and second attachments include a magnetically permeable mount portion shaped to be seatable on the mount (see Boyden, fig.8 and 8a, col.8, line 57 to col.9, line 11).

Regarding claim 11, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 1, wherein the mount includes a magnetically permeable portion secured to the housing (see Boyden, fig.8 and 8a, col.8, line 57 to col.9, line 11).

Regarding claim 12, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 11, wherein the first and second attachments include a magnet positioned to be seatable on the mount (see Boyden, fig.8 and 8a, col.8, line 57 to col.9, line 11).

Regarding claim 13, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 1, wherein the top portion includes:

a face with serrations to securely engage to a temple member of a pair of glasses (see De Pol, fig.2, paragraph 0029-0032); and

a cooperating mechanism operative to move relative to the face between an open and a closed position (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 14, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 13, wherein the cooperating mechanism is a clip (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 15 De Pol, Boyden, and Chung further teach the wireless communications kit of claim 13, wherein the cooperating mechanism is a spring-loaded lever (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 16, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 13, wherein the cooperating mechanism locks into a closed position to secure the communications headset to the temple member (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 17, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 28, wherein the mount comprises a post having a free end extending from the housing of the communication headset (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 18, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 17, wherein the first (see Chung, fig.2, hanger 200) and second attachments include a downwardly dependent leg shaped and sized for receipt about the post so as to secure the leg to the post (see Chung, paragraph 0039-0040).

Regarding claim 19, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 18, wherein the leg is frictionally fit about the post (see Chung, paragraph 0039-0041).

Regarding claim 21, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 18, wherein the post includes an inner channel having a bent portion for receiving the leg (see De Pol, fig.2, paragraph 0029-0032).

Regarding claim 22, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 28 further comprising a transceiver connectable to a communications jack on the cellular telephone by wires (see Boyden, col.5, lines 32-54), the communications circuitry within the communications headset communicating in a wireless manner with the transceiver (see Boyden, col.5, lines 32-54).

Regarding claim 23, De Pol, Boyden, and Chung further teach the wireless communications kit of claim 22, further comprising a fastener on each of the transceiver and the cellular telephone that secures the transceiver and the cellular telephone together (see Boyden, col.5, lines 32-54).

Regarding claim 28, Boyden teaches a wireless communications kit for use with a cellular telephone, comprising:

a communications headset having a mount (col.5, lines 32-54);

a housing (col.5, lines 32-54) attached to the mount (col.5, lines 32-54), the housing including a microphone (col.5, lines 32-54), a speaker (col.5, lines 32-54), a rechargeable battery and communications circuitry therein (col.5, lines 32-54), the microphone and speaker being in communication with the cellular telephone (col.8, lines 11-21), the communications circuitry having the microphone as an input and the speaker as an output (col.5, lines 32-54);

wherein the mount comprises a slot through the housing (fig.6-8, abstract, col.3, lines 60-67);

a second attachment shaped to secure itself to the mount and including a top portion arranged to attach to a temple member of a pair of glasses (fig.6-8, abstract, col.3, lines 60-67);

wherein the first and second attachments dependent leg shaped and sized for receipt in the slot (fig.6-8, abstract, col.3, lines 60-67);

Boyden fails to specifically disclose a first attachment shaped to secure itself to the mount and configured to seat itself about an ear of a user. However, Chung teaches a first attachment shaped to secure itself to the mount (fig.2, hanger 200) and configured to seat itself about an ear of a user (fig.1-2, and 7, hanger 200, abstract, paragraph 0012-0013, 0028). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to the teaching of Chung with Boyden to provide the headset to easily worn on a user's ear and to maintained in it's initial stable and comfortable wearing position.

Boyden and Chung fail to specifically disclose a top portion, and wherein the first and second attachments include a downwardly dependent leg shaped and sized for receipt in the slot. However, De Pol teaches a top portion (fig.2, paragraph 0029-0032), and wherein the attachments include a downwardly dependent leg shaped and sized for receipt in the slot (fig.2, paragraph 0029-0032). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the

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teaching of De Pol to Chung and Boyden to provide the accessory can be used from time to time on a plurality of glasses, even if these are of different types.

Allowable Subject Matter

5. Claims 7-8 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571.272.7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Khai Nguyen
Au: 2617

7/27/2007



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SUPERVISORY PATENT EXAMINER

7/31/07